

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

DAVID ALLEN MINOR,

Plaintiff,

v.

Civil Action No. 5:06CV102
(STAMP)

RITCHIE COUNTY COURTS,
WV REGIONAL JAIL AUTHORITY,
GEORGE TRENT, North Central
Regional Jail Administrator,
PRIME CARE,
DOLLY GRAHAM, Head Nurse,
Potomac Highlands Medical Department
and DR. JOE, Practitioner at
Potomac Highlands Regional Jail,

Defendants.

ORDER OVERRULING PLAINTIFF'S OBJECTIONS
AND DENYING MOTION FOR COUNSEL

On November 17, 2006, Magistrate Judge Kaull issued a report and recommendation recommending that the plaintiff's civil rights complaint be dismissed with prejudice as to Ritchie County Courts, WVRJA, Prime Care and George Trent and that the complaint be dismissed without prejudice as to Dolly Graham and Dr. Joe. The magistrate judge informed the parties that if they objected to any portion of this report, they must file written objections within ten days after being served with copies of this report. No timely objections were filed.

This Court reviewed the report and recommendation of the magistrate judge for clear error and on March 5, 2007, issued an opinion and order affirming and adopting the report and recommendation of the magistrate judge and dismissing the

plaintiff's complaint. On March 22, 2007, the plaintiff filed an objection to the decision of this Court in which he states that the reason he did not file objections to the report and recommendation is that he never received a copy of the decision. The plaintiff then "pray[s] that the Court will take these objections under consideration."

The plaintiff provides no evidence to support his contention that he did not receive the report and recommendation. See Joshua v. Johnson, 2007 WL 4115955 (requiring party to provide sworn evidence of non-receipt of report and recommendation). The records of this Court indicate that a copy of the report and recommendation was sent to the plaintiff at the Potomac Highlands Regional Jail on November 17, 2006. Further, the plaintiff admits in his objections that he was housed at the Potomac Highlands Regional Jail at the time Magistrate Judge Kaull issued the report and recommendation. Accordingly, the plaintiff's objections are untimely and need not be considered by this Court.

Nonetheless, even if this Court were to consider the plaintiff's objection, the result would be the same. The plaintiff's objection does not address the substance of Magistrate Judge Kaull's report and recommendation. Because the plaintiff objected only to his alleged non-receipt of the report and recommendation and did not object to any substantive portion of the report and recommendation, a de novo review of the report and

recommendation is not required. Accordingly, the plaintiff's objections are overruled.

Additionally, the plaintiff's "Motion for Court Appointed Legal Reppresentation (sic)," which was attached to his objections, is DENIED AS MOOT. This case has been dismissed from the active docket of this Court.

IT IS SO ORDERED.

The Clerk is directed to transmit a copy of this order to the plaintiff.

DATED: January 18, 2008

/s/ Frederick P. Stamp, Jr.
FREDERICK P. STAMP, JR.
UNITED STATES DISTRICT JUDGE